

REMARKS

Reconsideration of this application is requested. Claims 48-69 are in the case.

I. DOUBLE PATENTING

Claims 1-47 stand provisionally rejected under 35 U.S.C. § 101 as allegedly claiming the same invention as that of claims 1-47 of co-pending application Serial No. 09/930,494. This rejection is respectfully traversed.

In cases where there are no rejections other than provisional double patenting, proper Office procedure is to allow one of the conflicting applications to issue as a patent. In this regard the MPEP states:

If the "provisional" double patenting rejection in one application is the only rejection remaining in that application, the examiner should then withdraw that rejection and permit the application to issue as a patent, thereby converting the "provisional" double patenting rejection in the other application(s) into a double patenting rejection at the time the one application issues as a patent.

MPEP 804 I.B., 8th ed. (Aug. 2001), page 800-19. Accordingly, assuming that there continue to be no rejections other than provisional double patenting rejections, any provisional double patenting rejection(s) should be withdrawn and the subject application should be allowed.

II. INFORMATION DISCLOSURE STATEMENTS

Attention is drawn to claims 21, 23, 25, 27-31, and 36-42 of copending Application No. 09/838,136 (Attorney Ref. 1331-337). A copy of those claims is attached.

Information Disclosure Statements have been submitted in this case on February 28, 2001, March 30, 2001, December 17, 2001, January 18, 2002, February 5, 2002, February 14, May 29, 2002 and September 13, 2002. However, the undersigned has not yet received the initialed PTO 1449 forms. It is requested that copies of the PTO 1449 forms be attached to the next paper to issue in this case.

III. NEW CLAIMS

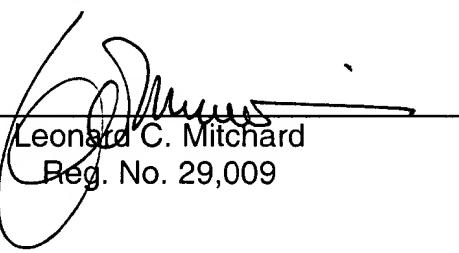
The claims are now directed to the subject matter of original claims 22, 24, 26, 28-30, 31 (excluding epilepsy, peripheral neuropathy, and ataxia), 32 (excluding steatohepatitis and hepatic failure), and 37-43. Additional dependent claims 62-69 are presented to the method wherein the pyrimidine nucleotide precursor is 2',3',5'-tri-O-acetyluridine. Subject matter canceled from present application has been canceled without prejudice to the possibility of pursuing that subject matter in a separate continuing application. No new matter is entered.

Allowance of the application is awaited.

Respectfully submitted,

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Attachments: Claims of USSN 09/838,136 (Att. Ref: 1331-337)